

104TH CONGRESS
2D SESSION

H. R. 4115

To require the Director of the Federal Emergency Management Agency to study the feasibility of a Residential Windstorm Insurance Program designed to provide windstorm insurance to residential property owners unable to obtain coverage in the private market and to require a study by the Comptroller General of the United States, the Secretary of the Treasury, and the Secretary of Commerce to evaluate the public policy issues associated with conferring favorable Federal tax treatment to insurance reserves set aside by private insurers for future catastrophic natural disasters.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 19, 1996

Mr. FRAZER (for himself, Ms. MCKINNEY, Mr. OWENS, Mr. LEWIS of Georgia, Ms. WATERS, Mr. MORAN, Mr. RUSH, Mr. LAFALCE, Mrs. CLAYTON, Mr. FALEOMAVAEGA, Ms. BROWN of Florida, Mr. GENE GREEN of Texas, Mr. HINCHEY, Mr. BROWN of Ohio, Mr. HASTINGS of Florida, Mr. WATT of North Carolina, Mr. SERRANO, Mr. RANGEL, Ms. KAPTUR, Mr. WARD, Mr. MARKEY, Mr. STUPAK, Mr. WYNN, Mr. CUMMINGS, Mrs. MEEK of Florida, Ms. JACKSON-LEE of Texas, and Mr. JEFFERSON) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure, and in addition to the Committee on Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To require the Director of the Federal Emergency Management Agency to study the feasibility of a Residential Windstorm Insurance Program designed to provide windstorm insurance to residential property owners unable to obtain coverage in the private market and to require

a study by the Comptroller General of the United States, the Secretary of the Treasury, and the Secretary of Commerce to evaluate the public policy issues associated with conferring favorable Federal tax treatment to insurance reserves set aside by private insurers for future catastrophic natural disasters.

1 *Be it enacted by the Senate and House of Representa-*
 2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Residential Windstorm
 5 Insurance Plan Act of 1996”.

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7 Congress finds that—

8 (1) since the devastation of Hurricane Hugo on
 9 September 17, 1989, insurance against windstorm
 10 damage has been difficult to obtain at reasonable
 11 premium rates for many residents of the United
 12 States;

13 (2) an unusual number of other catastrophic
 14 events, such as Hurricane Andrew in Florida, Hurri-
 15 cane Iniki in Hawaii, the Northridge earthquake,
 16 and more recently, Hurricanes Bertha and Fran in
 17 Gulf and Atlantic Coast States, Puerto Rico, and
 18 the Virgin Islands, have nearly collapsed the world-
 19 wide reinsurance market, seriously limiting the abil-
 20 ity of local insurance companies to meet existing de-

1 mands for continued coverage, much less expand
2 their capacity for additional coverage;

3 (3) major hurricanes and earthquakes pose sub-
4 stantial long-term consequences for the country;

5 (4) the National Hurricane Center reports that
6 60 percent of the United States population live in
7 coastal States or regions subject to natural disas-
8 ters, such as hurricanes and earthquakes;

9 (5) private sector insurance protection against
10 property damages caused by the peril of wind is gen-
11 erally excluded under standard homeowners insur-
12 ance policies sold in 7 States along the Gulf and At-
13 lantic Coast States, the Virgin Islands, and Puerto
14 Rico, and property and casualty insurers are with-
15 drawing underwriting capacity from the market by
16 refusing to issue new policies or renew existing poli-
17 cies, or by increasing premiums to unaffordable lev-
18 els; and

19 (6) new and innovative programs are required
20 to provide a limited program of property insurance
21 protection from windstorm.

22 **SEC. 3. RESIDENTIAL WINDSTORM INSURANCE PROGRAM.**

23 (a) IN GENERAL.—The Director of the Federal
24 Emergency Management Agency (hereinafter in this Act
25 referred to as the “Director”) shall study the advisability

1 and feasibility of establishing a Residential Windstorm In-
2 surance Program designed to provide windstorm insurance
3 to residential property owners unable to obtain coverage
4 in the private market.

5 (b) PURPOSE OF PROGRAM.—The Residential Wind-
6 storm Insurance Program shall—

7 (1) amend the “Write Your Own” Program
8 under the National Flood Insurance Program to ex-
9 plicitly provide insurance protection against the
10 windstorm peril;

11 (2) allow residents in wind-exposed localities
12 across America and United States territories to pur-
13 chase federally subsidized insurance to supplement
14 standard homeowners insurance policies sold by pri-
15 vate insurers;

16 (3) provide windstorm insurance protection only
17 to residents in communities that have adopted and
18 enforced the land use and flood plain management
19 provisions of the National Flood Insurance Program;

20 (4) encourage the private insurance industry to
21 sell, service, and adjust Federal windstorm insurance
22 claims under their own corporate name under a
23 nonrisk bearing arrangement with the Federal In-
24 surance Administration; and

1 (5) outline requirements under which the pri-
2 vate sector, including insurance companies, banks,
3 and other financial sector firms, could become in-
4 volved in the Residential Windstorm Insurance Pro-
5 gram.

6 (c) CONTENTS.—The Residential Windstorm Insur-
7 ance Program required under subsection (a) shall be de-
8 signed—

9 (1) to supplement Federal disaster relief and
10 emergency assistance provided pursuant to the Rob-
11 ert T. Stafford Disaster Relief and Emergency As-
12 sistance Act and other laws for damage and loss
13 caused by hurricanes;

14 (2) to make affordable insurance coverage avail-
15 able to protect against losses resulting from physical
16 damage to, or loss of, residential structures arising
17 from the wind peril;

18 (3) to provide such insurance coverage for resi-
19 dential structures through a program that pro-
20 vides—

21 (A) insurance coverage for wind damage
22 caused by hurricanes, but not for water damage
23 arising from any such wind peril;

1 (B) insurance coverage at premium rates
2 affordable to homeowners in areas at risk for
3 such wind damage;

4 (C) appropriate building and structural re-
5 quirements and other wind damage mitigation
6 measures; and

7 (D) schedules of the amount of coverage
8 available for various residential structures;

9 (4) to provide incentives for private property
10 and casualty insurers to reenter markets from which
11 they have previously withdrawn; and

12 (5) to provide incentives for other private finan-
13 cial sector companies to enter the market for hazard
14 insurance.

15 (d) CONSIDERATIONS.—The Residential Windstorm
16 Insurance Program required under subsection (a) shall—

17 (1) provide for participation of the private in-
18 surance industry in carrying out the program;

19 (2) define—

20 (A) the areas in which such coverage is
21 made available by establishing requirements for
22 the eligibility or participation of communities;
23 and

24 (B) the types of residential properties for
25 which such coverage is made available;

1 (3) establish premium rates for coverage that
2 are actuarially based on the risk of wind-caused
3 damage or subsidized premium rates that are less
4 than such actuarially based rates; and

5 (4) provide community-based mitigation and
6 other initiatives for participation in the Program.

7 (e) CONSULTATION.—In developing the program re-
8 quired under subsection (a), the Director shall consult
9 with—

10 (1) the heads of any Federal agencies author-
11 ized to provide disaster relief;

12 (2) the chief executive officers of the States and
13 territories of the United States, that suffered signifi-
14 cant losses caused by windstorms occurring after the
15 beginning of 1989; and

16 (3) insurance and reinsurance companies, insur-
17 ance trade associations, consumer advocacy groups,
18 and taxpayer groups in developing actuarial rates
19 and underwriting guidelines used to cover damages
20 to property caused by the hurricane peril.

21 (f) COMPLETION OF STUDY.—Not later than the last
22 day of the 180-day period beginning on the date of the
23 enactment of this Act, the Director shall submit to the
24 Committee on Transportation and Infrastructure and the
25 Committee on Banking and Financial Services of the

1 House of Representatives and to the Committee on Envi-
2 ronment and Public Works and the Committee on Bank-
3 ing, Housing, and Urban Affairs of the Senate a study
4 containing—

5 (1) the written plan required under subsection
6 (a);

7 (2) a statement of the amount of disaster as-
8 sistance provided pursuant to the Robert T. Stafford
9 Disaster Relief and Emergency Assistance Act and
10 other Acts during each of fiscal years 1989 through
11 1996 for property damage caused by winds from
12 hurricanes, tornadoes, and other windstorms to resi-
13 dential properties, business properties, agricultural
14 properties, properties owned by private nonprofit or-
15 ganizations, and public infrastructure facilities and
16 properties owned by State and local governments;

17 (3) an estimate of the cost to the Federal Gov-
18 ernment of carrying out the Residential Windstorm
19 Insurance Program under the plan, by making cov-
20 erage available only for residential structures;

21 (4) an estimate of the cost to the Federal Gov-
22 ernment of carrying out the Residential Windstorm
23 Insurance Program under the plan, by making cov-
24 erage available for residential structures and for
25 public infrastructure and properties owned by State

1 and local governments, other residential properties,
2 business properties, agricultural properties, and
3 properties owned by private nonprofit organizations;

4 (5) an estimate of the effects that implementing
5 the national windstorm insurance program would
6 have on the amount of disaster assistance provided
7 by the Federal Government;

8 (6) an estimate of the effects that implementing
9 the national windstorm insurance program would
10 have on the private insurance industry and the avail-
11 ability of residential and other property insurance
12 and insurance against windstorm damage;

13 (7) a description of any amendments to the
14 Robert T. Stafford Disaster Relief and Emergency
15 Assistance Act and other laws relating to disaster
16 assistance that would be necessary or appropriate in
17 the event of the implementation of the Residential
18 Windstorm Insurance Program; and

19 (8) any other information that the Director
20 considers appropriate.

21 **SEC. 4. EARTHQUAKE INSURANCE STUDY.**

22 (a) IN GENERAL.—The Director shall enter into an
23 arrangement with the National Academy of Sciences to
24 conduct a study on the advisability and feasibility of estab-
25 lishing a Federal earthquake insurance program modeled

1 after the “Write Your Own” Program under the National
2 Flood Insurance Program.

3 (b) NATIONAL ACADEMY OF SCIENCES.—The study
4 described in subsection (c) shall be performed by a panel
5 of recognized experts appointed by the National Academy
6 of Sciences. The experts shall include representatives of
7 building contractors, real estate interests, consumer advo-
8 cacy groups, taxpayer groups, lending institutions, private
9 insurers and reinsurers, the model building code organiza-
10 tions, local government zoning and land use planning bod-
11 ies, and other experts deemed relevant by the National
12 Academy of Sciences.

13 (c) COMPLETION OF STUDY.—The results of the
14 study described in subsection (c), with any recommenda-
15 tions, shall be transmitted by the National Academy of
16 Sciences to the Director and Congress not later than 18
17 months after the date of the enactment of this Act.

18 **SEC. 5. STUDY ON TAX TREATMENT OF CATASTROPHIC RE-**
19 **SERVES.**

20 (a) JOINT STUDY.—The Comptroller General of the
21 United States, the Secretary of the Treasury, and the Sec-
22 retary of Commerce shall conduct a joint study to evaluate
23 the public policy issues associated with conferring favor-
24 able Federal tax treatment to multiyear insurance reserves

1 set aside by private insurers for future catastrophic natu-
2 ral disasters.

3 (b) FACTORS TO BE STUDIED.—The study described
4 in subsection (a) shall evaluate the likelihood and mag-
5 nitude of the following public policy objectives:

6 (1) The increased financial capacity of private
7 insurers to respond to future natural disasters.

8 (2) The enhanced financial ability of private in-
9 surers to continue providing property coverages fol-
10 lowing catastrophic natural disasters.

11 (3) The overall benefit to the competitiveness of
12 United States business and private insurers in the
13 worldwide economy.

14 (4) The short- and long-term revenue impact on
15 the United States Treasury.

16 (c) LIMITATIONS.—The study of the favorable tax
17 treatment of catastrophic reserves shall be limited as fol-
18 lows:

19 (1) The study will not be limited to private in-
20 surer reserve funds but will also assess the ability of
21 the Federal and State governments to build such re-
22 serves.

23 (2) Any tax exemption given to catastrophic re-
24 serves will be done in a very limited and restricted

1 manner in order to protect reserves against being
2 used for other than catastrophe costs.

3 (3) A portion of the buildup from the tax-ex-
4 empt reserves will be used to fund statewide mitiga-
5 tion efforts.

6 (d) CONSULTATION.—The Comptroller General, the
7 Secretary of the Treasury, and the Secretary of Commerce
8 shall consult with recognized experts in preparing the
9 study described in subsection (a). The experts shall in-
10 clude representatives from State insurance departments,
11 private insurers, insurance agents, economists, natural
12 disaster risk modeling experts, insurance consumer advo-
13 cacy groups, and other experts deemed relevant.

14 (e) REPORT TO CONGRESS.—The results of the study
15 described in subsection (a), including any recommenda-
16 tions, shall be transmitted to Congress not later than 180
17 days after the date of enactment of this Act.

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